

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER BUTLER,

Petitioner,

v.

L. E. SCRIBNER, Warden

Respondent.

Civil No. 07-0255 J (AJB)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Because this petition is duplicative of another habeas petition already on file, it must be dismissed. The Court may dismiss a duplicative petition as frivolous if it “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citations omitted). Here, Petitioner has filed two nearly identical petitions with this Court. The Petition in this case was filed on February 8, 2007, without the \$5.00 filing fee. An identical petition was filed in case number 06cv1296 W (RBB), with the \$5.00 filing fee, on June 20, 2006.¹

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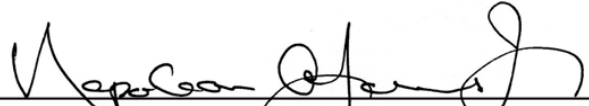
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¹ The Court notes that one January 1, 2007, the Court stayed the petition in 06cv1296 W (RBB) until May 1, 2007. To the extent Petitioner is attempting to update the Court in *that* case as to the status of his petition, he must do so by filing a status report or First Amended Petition with *Case No. 06-1296 affixed to the pleading*.

1 Based on the foregoing, the Court **DISMISSES** this case because the Petition in this case
2 is duplicative of that filed in case number 06cv1296 W (RBB). The Clerk shall close the file.

3 **IT IS SO ORDERED.**

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5 DATED: May 8, 2007

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7 HON. NAPOLEON A. JONES, JR.
United States District Judge

8 CC: Magistrate Judge Ruben B. Brooks
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